

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

GOLO, LLC,

Plaintiff,

v.

GOLI NUTRITION INC., a Canadian
Corporation, GOLI NUTRITION INC., a
Delaware Corporation, and MICHAEL
BITENSKY,

Defendants.

GOLI NUTRITION INC., a Canadian
Corporation, GOLI NUTRITION INC., a
Delaware Corporation and MICHAEL
BITENSKY,

Counter-Plaintiffs,

v.

GOLO, LLC and CHRISTOPHER LUNDIN,

Counter-Defendants.

C.A. No. 20-667-RGA-SRF

PUBLIC VERSION

**DECLARATION OF CHAD S.C. STOVER IN SUPPORT OF GOLO, LLC'S
MOTION FOR PARTIAL SUMMARY JUDGMENT AND MOTION TO EXCLUDE
OPINIONS AND TESTIMONY OF GOLI NUTRITION, INC.'S EXPERT WITNESSES**

I, Chad S.C. Stover, declare as follows:

1. I am a partner in Barnes & Thornburg LLP, counsel for the Plaintiff and Counter-Defendants, GOLO, LLC ("GOLO"). I make this Declaration in connection with GOLO's Opening Brief in Support of the Motion for Partial Summary Judgment and Opening Brief in Support of Motion to Exclude Opinions and Testimony of Goli Nutrition, Inc.'s Expert Witnesses.

I make this declaration from personal knowledge, and if called to testify, I could and would testify competently thereto.

2. Attached to this Declaration as Appendix I is an index of the Exhibits.
3. Attached to this Declaration as Exhibit 1 is a true and correct copy of a screenshot of www.golo.com.
4. Attached to this Declaration as Exhibit 2 is a true and correct copy of a screenshot of www.golo.com/pages/about-us.
5. Attached to this Declaration as Exhibit 3 is a true and correct copy of a screenshot of www.golo.com/pages/shop-golo.
6. Attached to this Declaration as Exhibit 4 is a true and correct copy of a screenshot of <https://aerotrainer.com>.
7. Attached to this Declaration as Exhibit 5 is a true and correct copy of a screenshot of <https://goli.com/pages/goli-acv>.
8. Attached to this Declaration as Exhibit 6 is a true and correct copy of a screenshot of <https://goli.com/pages/about-us>.
9. Attached to this Declaration as Exhibit 7 is a true and correct copy of the February 1, 2023 Expert Report of Sarah Butler.
10. Attached to this Declaration as Exhibit 8 is a true and correct copy of the February 3, 2023 Expert Report of Prof. Timothy Calkins.
11. Attached to this Declaration as Exhibit 9 is a true and correct copy of the February 3, 2023 Expert Report of Lawrence J. Cheskin, M.D.
12. Attached to this Declaration as Exhibit 10 is a true and correct copy of the March 23, 2023 Supplemental Expert Report of Lawrence J. Cheskin, M.D.

13. Attached to this Declaration as Exhibit 11 is a true and correct copy of an excerpt of the transcript of the March 23, 2023 deposition of Lawrence J. Cheskin, M.D.

14. Attached to this Declaration as Exhibit 12 is a true and correct copy of the February 3, 2023 Expert Report of Carlo Salvatore Contoreggi, M.D.

15. Attached to this Declaration as Exhibit 13 is a true and correct copy of the March 23, 2023 Supplemental Expert Report of Carlo Salvatore Contoreggi, M.D.

16. Attached to this Declaration as Exhibit 14 is a true and correct copy of an excerpt of the transcript of the March 24, 2023 deposition of Carlo S. Contoreggi, M.D.

17. Attached to this Declaration as Exhibit 15 is a true and correct copy of the March 3, 2023 Rebuttal Expert Report of Eric DeRosia.

18. Attached to this Declaration as Exhibit 16 is a true and correct copy of the March 2, 2023 Expert Report of Daniel Fabricant, Ph.D.

19. Attached to this Declaration as Exhibit 17 is a true and correct copy of the March 3, 2023 Expert Report of Daniel J. Merenstein, M.D.

20. Attached to this Declaration as Exhibit 18 is a true and correct copy of the February 3, 2023 Expert Report of Alyson Mitchell, Ph.D.

21. Attached to this Declaration as Exhibit 19 is a true and correct copy of the March 3, 2023 Expert Report of Sean O'Keefe, Ph.D.

22. Attached to this Declaration as Exhibit 20 is a true and correct copy of an excerpt of the transcript of the March 20, 2023 deposition of Sean O'Keefe, Ph.D.

23. Attached to this Declaration as Exhibit 21 is a true and correct copy of the Feb. 3, 2023 Expert Report of Laura O'Laughlin.

24. Attached to this Declaration as Exhibit 22 is a true and correct copy of the March 3, 2023 Rebuttal Expert Report of Hal Poret.

25. Attached to this Declaration as Exhibit 23 is a true and correct copy of the Declaration of Hal Poret, D.I. 66 in *Flushing v. Green Dot Corp.*, Case No. 1:13-cv-09120 (S.D.N.Y.).

26. Attached to this Declaration as Exhibit 24 is a true and correct copy of an excerpt of the transcript of the March 30, 2023 deposition of Hal Poret.

27. Attached to this Declaration as Exhibit 25 is a true and correct copy of the February 3, 2023 Expert Report of Sameer Somal.

28. Attached to this Declaration as Exhibit 26 is a true and correct copy of an excerpt of the transcript of the March 28, 2023 deposition of Sameer Somal.

29. Attached to this Declaration as Exhibit 27 is a true and correct copy of Plaintiff GOLO, LLC's Responses and Objections to Defendants' Second Set of Interrogatories (No. 23) dated October 13, 2021, marked as Exhibit 9 to the March 28, 2023 deposition of Sameer Somal.

30. Attached to this Declaration as Exhibit 28 is a true and correct copy of the July 7, 2020 email from M. Icasiano to E. Witman regarding Release Label Designs (GOLODE_00092881), marked as Exhibit 10 to the March 28, 2023 deposition of Sameer Somal.

31. Attached to this Declaration as Exhibit 29 is a true and correct copy of the March 3, 2023 Rebuttal Expert Report of Jeffery A. Stec, Ph.D.

32. Attached to this Declaration as Exhibit 30 is a true and correct copy of the February 4, 2023 Expert Report of Keith R. Ugone, Ph.D.

33. Attached to this Declaration as Exhibit 31 is a true and correct copy of the February 4, 2023 Expert Report of Keith R. Ugone, Ph.D., which has been highlighted.

34. Attached to this Declaration as Exhibit 32 is a true and correct copy of an excerpt of the transcript of the March 29, 2023 deposition of Keith R. Ugone.

35. Attached to this Declaration as Exhibit 33 is a true and correct copy of the February 3, 2023 Expert Report of Prof. Jerry (Yoram) Wind.

36. Attached to this Declaration as Exhibit 34 is a true and correct copy of an excerpt of the transcript of the December 2, 2022 deposition of Taylor Lundin.

37. Attached to this Declaration as Exhibit 35 is a true and correct copy of AeroTrainer FAQs Draft June 8, 2020 (GOLODE_0058704), marked as Exhibit 13 to the December 2, 2022 deposition of Taylor Lundin.

38. Attached to this Declaration as Exhibit 36 is a true and correct copy of AeroTrainer – Order Center Script (GOLODE_00060563), marked as Exhibit 15 to the December 2, 2022 deposition of Taylor Lundin.

39. Attached to this Declaration as Exhibit 37 is a true and correct copy of an excerpt of the transcript of the December 20, 2022 Deposition of Kathleen Power.

40. Attached to this Declaration as Exhibit 38 is a true and correct copy of the January 2021 Goli Nutrition Management Presentation (GOLI 0115849).

41. Attached to this Declaration as Exhibit 39 is a true and correct copy of Plaintiff and Counter-Defendant GOLO, LLC's and Counter-Defendant Christopher Lundin's First Supplemental Response to Defendants' Interrogatory No. 24 dated January 4, 2023.

42. Attached to this Declaration as Exhibit 40 is a true and correct copy of Plaintiff GOLO, LLC's Third Amended and Supplemental Responses to Defendants' 1st Set of

Interrogatories (Interrogatory Numbers 2, 8, 9, 10, 12, 14, and 18), and First Supplemental Response to Defendants' Interrogatory Number 25 dated February 1, 2023.

43. Attached to this Declaration as Exhibit 41 is a true and correct copy of U.S. Trademark Registration No. 4,436, 947.

44. Attached to this Declaration as Exhibit 42 is a true and correct copy of Jerre B. Swan, *Likelihood-of-Confusion Surveys*, Trademark and Deceptive Advertising Surveys: Law, Science, and Design, 2d ed. 2022 (American Bar Association).

45. Attached to this Declaration as Exhibit 43 is a true and correct copy of Shari Seidman Diamond, J.D., Ph.D., S., *Reference Guide on Survey Research*, Reference Manual on Scientific Evidence, 3d ed. 2011 (National Research Council).

Dated: April 14, 2023
Public Version filed on May 19, 2023



Chad S.C. Stover